

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

AMERICA FIRST POLICY INSTITUTE,

Plaintiff,

v.

OFFICE OF PERSONNEL MANAGEMENT,

Defendant.

Civil Action No. 4:24-cv-811-P

**APPENDIX IN SUPPORT OF DEFENDANT’S ANSWER  
TO PLAINTIFF’S ORIGINAL COMPLAINT**

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Respectfully submitted,

LEIGHA SIMONTON  
UNITED STATES ATTORNEY

/s/ Andrea Hyatt

Andrea Hyatt

Assistant United States Attorney

Texas Bar No. 24007419

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801 Cherry Street, Unit #4

Fort Worth, Texas 76102-6882

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[Andrea.Hyatt@usdoj.gov](mailto:Andrea.Hyatt@usdoj.gov)

*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

On October 7, 2024, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Andrea Hyatt

Andrea Hyatt

Assistant United States Attorney



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT  
Washington, DC 20415

February 16, 2024

Via Electronic Mail

James Sherk  
Director, Center for American Freedom  
America First Policy Institute  
[jsher@americafirstpolicy.com](mailto:jsher@americafirstpolicy.com)

Re: Final Response to Freedom of Information Act (FOIA) Request No. 2022-00337

Dear James Sherk:

This is the final response to your FOIA request to the U.S. Office of Personnel Management (OPM), received on October 28, 2021, assigned tracking number 2022-00337. You requested the following:

A copy of all agency arbitral awards submitted to [the U.S. Office of Personnel Management (OPM)] pursuant to section 8 of Executive Order 13836 of May 25, 2018. This request is inclusive of all awards submitted between May 25, 2018 and the date of this request.

You subsequently submitted another request seeking the same records, but for the period of between October 29, 2021, and September 6, 2022, which was assigned tracking number 22-ES-0106-F. Both requests were ultimately consolidated under tracking number 2022-00337.

Your request was processed under the FOIA, 5 U.S.C. § 552.

A search was conducted by OPM's Employee Workforce Policy and Innovation (WPI) program office. Responsive records totaling 117 PDF files were located. All records originated with and were submitted to OPM by other agencies or components. As such, OPM determined to refer the records to the submitter agencies for processing and direct response to you. Below is the FOIA contact information for the agencies to which the records were referred, and the number of files referred to each.

Consumer Financial Protection Bureau  
Paul Levitan, Acting FOIA Manager  
855-444-3642  
[cfpb\\_foia@consumerfinance.gov](mailto:cfpb_foia@consumerfinance.gov)  
(2 files)

Transportation Security Administration  
FOIA Requester Service Center  
866-364-2872  
571-227-2300

**DEFENDANT'S  
EXHIBIT  
A**

James Sherk

2022-00337

[foia@tsa.dhs.gov](mailto:foia@tsa.dhs.gov)

(25 files)

U.S. Customs & Border Protection

FOIA Requester Service Center

202-325-0150

[cbpfoiapublicliaison@cbp.dhs.gov](mailto:cbpfoiapublicliaison@cbp.dhs.gov)

(6 files)

U.S. Immigration & Customs Enforcement

Fernando Pineiro, FOIA Officer

866-633-1182

[ice-foia@dhs.gov](mailto:ice-foia@dhs.gov)

(1 file)

U.S. Citizenship & Immigration Services

FOIA Requester Service Center

[foiapaquestions@uscis.dhs.gov](mailto:foiapaquestions@uscis.dhs.gov)

(20 files)

Department of the Air Force

FOIA Requester Service Center

703-693-2735

[daf.foia@us.af.mil](mailto:daf.foia@us.af.mil)

(10 files)

Department of the Army

FOIA Requester Service Center

(571) 515-0306

[usarmy.belvoir.hqda-esa.mbx.rmda-foia@army.mil](mailto:usarmy.belvoir.hqda-esa.mbx.rmda-foia@army.mil)

(1 file)

National Guard Bureau

Office of Information and Privacy (NGB/JA-OIP)

844-573-2939

[NGB.FOIA@mail.mil](mailto:NGB.FOIA@mail.mil)

(2 files)

National Park Service

Nicholas A. Banco, FOIA Officer

(202) 641-1621

[npsfoia@nps.gov](mailto:npsfoia@nps.gov)

(3 files)

Department of Labor

FOIA Requester Service Center

James Sherk

2022-00337

202-693-2009

Thomas G. Hicks, Sr., FOIA Public Liaison

202-693-5427

[foiarequests@dol.gov](mailto:foiarequests@dol.gov)

(3 files)

Department of Transportation – Federal Aviation Administration

Sheree Deberry, Manager, Intake Branch

202-267-8492

[sheree.l.deberry@faa.gov](mailto:sheree.l.deberry@faa.gov)

(2 files)

Social Security Administration

Michelle Christ, Freedom of Information Officer

410-965-1727

[foia.public.liaison@ssa.gov](mailto:foia.public.liaison@ssa.gov)

(31 files)

Department of Agriculture – Forest Service

Margaret Scofield, FOIA Officer

202-401-4410

[SM.FS.WOFOIA@usda.gov](mailto:SM.FS.WOFOIA@usda.gov)

(3 files)

Department of Veterans Affairs

Office of Information and Technology - VA Central Office FOIA Service

FOIA Requester Service Center

877-750-3642

[vacofoiaservice@va.gov](mailto:vacofoiaservice@va.gov)

(7 files)

Department of the Interior – Bureau of Reclamation

FOIA Requester Service Center

303-445-3292

[borfoia@usbr.gov](mailto:borfoia@usbr.gov)

(1 file)

If you are not satisfied with OPM's determination in response to this request, you may administratively appeal in writing by email to [OGCAtty@opm.gov](mailto:OGCAtty@opm.gov) or by mail to:

U.S. Office of Personnel Management

Office of the General Counsel

1900 E Street, N.W.

Washington, D.C. 20415

James Sherk

2022-00337

An appeal should include a copy of the initial request, a copy of the letter denying the request, and a statement explaining why you believe the denying official erred. Appeals must be electronically transmitted or postmarked within 90 calendar days of the date of this response. FOIA administrative appeals should be submitted via email to avoid processing delays.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. You may contact OGIS by e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; facsimile at 202-741-5769; or mail at:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001

You may also contact OPM's FOIA Public Liaison, Camille C. Aponte-Rossini, at [Camille.Aponte-Rossini@opm.gov](mailto:Camille.Aponte-Rossini@opm.gov) or 202-606-1153.

I trust this fully satisfies your request. If you need any further assistance or would like to discuss any aspect of your request, please do not hesitate to contact Steven Gitelman at [steven.gitelman@opm.gov](mailto:steven.gitelman@opm.gov) or 202-936-2470.

Sincerely,

**TIMOTHY CURRY**

Digitally signed by TIMOTHY  
CURRY

Date: 2024.02.16 13:50:42 -05'00'

Timothy F. Curry  
Deputy Associate Director, Accountability and  
Workforce Relations  
Workforce Policy and Innovation

**From:** [Gitelman, Steven R](#)  
**To:** [James Sherk](#)  
**Subject:** 23-ES-0565-F - Final Response  
**Date:** Friday, February 9, 2024 7:45:00 AM  
**Attachments:** [image001.png](#)

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Good morning.

Here is the access link for the OPM Office of the Executive Secretariat and Privacy and Information Management final response to the above-referenced request:

<https://us-opm-poc.box.com/s/njuclmaqpnm3jurin93yp6yw6omfusb1>

You will be asked to set up an account. You should enter the system as a non-OPM employee and select the "individual" account option, where you will be able to choose the "free" account rather than one of the subscription alternatives.

Please let me know if you run into any issues.

We appreciate the opportunity to work with you.

Steven Gitelman  
Government Information Specialist  
(he/him)  
U.S. Office of Personnel Management  
Office of the Executive Secretariat and Privacy and Information Management  
o: (202) 936-2470  
[Steven.Gitelman@opm.gov](mailto:Steven.Gitelman@opm.gov)  
[OPM.gov](https://www.opm.gov)



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DEFENDANT'S  
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UNITED STATES OFFICE OF PERSONNEL MANAGEMENT  
Washington, DC 20415

February 14, 2024

Via Electronic Mail

James Sherk  
America First Policy Institute  
[jsherk@americafirstpolicy.com](mailto:jsherk@americafirstpolicy.com)

Re: Final Response to Freedom of Information Act (FOIA) Request No. 23-OD-0595-F

Dear James Sherk:

This is the final response to your FOIA request received September 22, 2023, by the U.S. Office of Personnel Management (OPM), assigned tracking number 23-OD-0595-F. You requested the following for the period between January 20, 2021 and the date of completion:

A copy of all e-mails and attachments (including BCC and CC) sent to or from the custodians and any email addresses that use the @ourpublicservice.org e-mail domain; provided that this request does not encompass any e-mails already covered by FOIA requests 23-ES-0565-F or 23-OPM-0587-F. For the purpose of this request the custodians are Kiran Ahuja, Gaby Alvarado, Jon Foley, Ella Holman, Alethea Predeoux, Jason Tengco, and Ryan Uyehara.

Your request was processed under the FOIA, 5 U.S.C. § 552.

OPM searched the email accounts of the employees identified in the request. Responsive records totaling 230 pages were located. Upon review, OPM has determined to partially release certain records totaling 219 pages pursuant to FOIA Exemption 6, 5 U.S.C. § 552(b)(6), described below. Redactions have been placed on the withheld information and indicate the exemption(s) applied.

Eleven pages of responsive records originated with the General Services Administration (GSA). There records have been referred to the GSA's FOIA office, which you can contact at:

U.S. General Services Administration  
FOIA Requester Service Center (LG)  
1800 F. Street, NW  
Washington, DC 20405  
855-675-3642  
[gsa.foia@gsa.gov](mailto:gsa.foia@gsa.gov)

Amanda Jones, FOIA Program Manager  
(202) 969-5900  
[amanda.jones@gsa.gov](mailto:amanda.jones@gsa.gov)

Exemption 6 allows an agency to withhold "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U.S.C. § 552(b)(6). The phrase "similar files" covers any agency records containing information about a particular individual that can be identified as applying to that individual. The privacy interest that would be affected by disclosure must be balanced against any public interest in the information. Under the FOIA, the only re

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performance of its statutory duties or otherwise let citizens know what their government is up to.

The information that has been withheld under Exemption 6 consists of the contact information for individuals and the access ID numbers and passcodes for teleconferences and virtual meetings. OPM has determined that the disclosure of this information would shed little or no light on the operations of the government. Because the harm to personal privacy is greater than whatever public interest may be served by disclosure, release of the information would constitute a clearly unwarranted invasion of privacy.

Further, OPM considered the FOIA's foreseeable harm standard under 5 U.S.C. § 552(a)(8)(A)(i)(I) and determined that disclosure would harm an interest protected by the exemptions applied.

If you are not satisfied with OPM's determination in response to this request, you may administratively appeal in writing by email to [OGCAffy@opm.gov](mailto:OGCAffy@opm.gov) or by mail to:

U.S. Office of Personnel Management  
Office of the General Counsel  
1900 E Street, N.W.  
Washington, D.C. 20415

An appeal should include a copy of the initial request, a copy of the letter denying the request, and a statement explaining why you believe the denying official erred. Appeals must be electronically transmitted or postmarked within 90 calendar days of the date of this letter. It is recommended that FOIA administrative appeals be submitted via email to avoid processing delays.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. You may contact OGIS by e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; facsimile at 202-741-5769; or mail at:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001

You may also contact OPM's FOIA Public Liaison, Camille C. Aponte-Rossini, at [Camille.Aponte-Rossini@opm.gov](mailto:Camille.Aponte-Rossini@opm.gov) or 202-606-1153.

If you have any questions regarding your request, please contact Tiffany Ford at [Tiffany.Ford@opm.gov](mailto:Tiffany.Ford@opm.gov) or 202-936-2469.

Sincerely,

JOHN PETTIT Digitally signed by JOHN PETTIT  
Date: 2024.02.14 10:58:08  
-05'00'

John Pettit  
Chief Administrative Officer  
Office of the Director  
U.S. Office of Personnel Management

Enclosure: Responsive Records (219 pages)



Office of the Director

## UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

April 15, 2024

### Via Electronic Mail

James Sherk  
America First Policy Institute  
[jsherk@americafirstpolicy.com](mailto:jsherk@americafirstpolicy.com)

Re: Final Response to Freedom of Information Act (FOIA) Request No. 24-OD-0028-F

Dear James Sherk:

This is the final response to your FOIA request received October 10, 2023, by the U.S. Office of Personnel Management (OPM), assigned tracking number 24-OD-0028-F. You requested the following:

For the period between January 20, 2021 through the date of completion...a copy of all e-mails and attachments (including BCC and CC) sent to or from Kiran Ahuja, Rob Shriver, Tim Curry, Gaby Alvarado, Jon Foley, Ella Holman, Alethea Predeoux, Jason Tengco, and Ryan Uyehara and the following e-mail addresses of union officials at the Department of Veterans Affairs (VA), the Environmental Protection Agency (EPA), and the Social Security Administration: Howell.Joyce@epa.gov; Owens.Mariejr@epa.gov; Morton.Gary@epa.gov; mary-jean.burke@va.gov; alma.lee@va.gov; william.wetmore@va.gov; oscar.williams@va.gov; lapointe4c220@gmail.com [Jessica LaPointe, President of AFGC Council 220]; bill.price@ssa.gov.

Your request was processed under the FOIA, 5 U.S.C. § 552.

The Office of the Chief Information Officer (OCIO) searched the email accounts of the identified employees for correspondence with the email addresses identified in the request within the specified period. No records responsive to your request were located. OPM has, therefore, determined that there are no records responsive to your request.

If you are not satisfied with OPM's determination in response to this request, you may administratively appeal in writing by email to [OGCAtty@opm.gov](mailto:OGCAtty@opm.gov) or by mail to:

U.S. Office of Personnel Management  
Office of the General Counsel  
1900 E Street, N.W.  
Washington, D.C. 20415

An appeal should include a copy of the initial request, a copy of the letter denying the request, and a statement explaining why you believe the denying official erred. Appeals must be electronically

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transmitted or postmarked within 90 calendar days of the date of this response. It is recommended that FOIA administrative appeals be submitted via email to avoid processing delays.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. You may contact OGIS by e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; facsimile at 202-741-5769; or mail at:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001

You may also contact OPM's FOIA Public Liaison, Camille C. Aponte-Rossini, at [Camille.Aponte-Rossini@opm.gov](mailto:Camille.Aponte-Rossini@opm.gov) or 202-606-1153.

If you have any questions regarding your request, please contact Tiffany Ford at [Tiffany.Ford@opm.gov](mailto:Tiffany.Ford@opm.gov) or 202-936-2469.

Sincerely,

John Pettit  
Chief Administrative Officer  
Office of the Director  
U.S. Office of Personnel Management